

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 791 (Senator Greenip)
Education, Health, and Environmental Affairs

Ethics Law - Architectural and Engineering Services - Participation in Procurement

This bill allows any individual or firm to submit a bid or proposal for a construction procurement of any size even if architectural and engineering (A&E) services were provided for the design of the construction project. It also makes all others provisions of Chapter 84 of 2004 permanent.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: None. The bill does not affect the value of State procurements.

Local Effect: None.

Small Business Effect: Minimal. Small businesses that provide A&E services for the design of construction projects valued at less than \$2.5 million or more than \$100 million will now be permitted to submit bids or proposals for those projects.

Analysis

Current Law: In general, individuals or firms that assist in designing a procurement may not submit a bid or proposal for that procurement, subject to certain exemptions. Individuals or firms that provide A&E services for the design of a State construction project are exempt from that prohibition under certain conditions. Specifically, they may submit a bid or proposal for the project if the anticipated value of the project is between

\$2.5 million and \$40 million, and if the design services do not involve lead or prime design responsibilities on behalf of the State.

Background: Chapter 84 of 2004 established the exemption for certain A&E services under current law. It also amended the maximum value of a construction project subject to the exemption to \$100 million, but that provision is not scheduled to take effect until July 1, 2006. This bill eliminates completely the restriction on the size of a construction project, including the increased exemption up to \$100 million under Chapter 84.

Chapter 84 also required the Maryland Department of Transportation to issue annual reports on the implementation of the bill's provisions, including their impact on small businesses and minority business enterprises. Chapter 84 was scheduled to terminate June 30, 2008. However, this bill makes the remaining provisions permanent.

The Department of General Services advises that the bill could provide an unfair advantage to consulting firms that prepare preliminary designs for construction contracts. Those firms could team with construction firms to bid on the projects they designed, giving those teams an edge with respect to experience and inside knowledge of the proposed project.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services, Board of Public Works, State Ethics Commission, University System of Maryland, Maryland Department of Transportation, Department of Budget and Management, Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2006
mam/rhh

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